



DATE:

January 28, 2014

APPROVED BY:

Russell Schaedlich, Secretary

MINUTES OF THE LAKE COUNTY PLANNING COMMISSION

December 17, 2013

The Lake County Planning Commission hereby finds and determines that all formal actions were taken in an open meeting of this Planning Commission and that all the deliberations of the Planning Commission and its committees, if any, which resulted in formal actions, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Chair Hausch called the meeting to order at 5:33 p.m.

ROLL CALL

The following members were present: Messrs. Adams, Brotzman, Moran, Morse, Pegoraro (alt. for Troy), Schaedlich, Zondag, and Mmes. Hausch, and Pesec. Legal Counsel present: Assistant Prosecutor Joshua Horacek. Planning and Community Development Staff present: Mr. Radachy and Ms. Truesdell.

MINUTES

Mr. Schaedlich moved and Mr. Brotzman seconded the motion to approve the November 2013 minutes.

Eight voted "Aye".
One abstained.

FINANCIAL REPORT

Mr. Adams moved and Mr. Morse seconded the motion to accept the November 2013 Financial Report as submitted.

All voted "Aye".

PUBLIC COMMENT

There was no comment from the public.

LEGAL REPORT

Kimball Estates

Mr. Brotzman asked Mr. Horacek for a Kimball Estates update.

Mr. Joshua Horacek reported that he is waiting for a response from George Hadden. Mr. Hadden was to prepare a design and forward it to the developer but he is presently out on sick leave. Mr. Horacek has not received a letter from him about the terms and conditions.

DIRECTORS REPORT

Mr. Radachy reported on the following items:

- The Commissioners have authorized us to hire an intern for next year. The job has been posted at area colleges, on the County website, and on *planning.org*.
- Mr. Radachy is chairing a committee on Land Use and Economic Development for Soil and Water Conservation District's Watershed Action Plan for Mentor Marsh and Lake Erie direct streams to the west in Willoughby and Eastlake.

ANNOUNCEMENTS

There were no announcements.

SUBDIVISION REVIEW

Mr. Radachy said he had a request from the developer to alter the order of items on the agenda and take the block length as the first item.

Mr. Pegoraro moved and Mr. Brotzman seconded the motion to move the Stein Farm Variance to the first order of consideration under the Subdivision Review.

All voted "Aye".

Leroy Township - Stein Farm Variance on Article IV, Section 3(G)(2)

Mr. Radachy said that the owner of Stein Farms Subdivision in Leroy Township is Leroy-1 LLC represented by Mark Gordon and the law firm of Mansour, Gavin, Gerlack & Manos Co., L.P.A represented by John Munro. The engineers are Barrington Consulting Group. Stein Farms is located on Leroy-Thompson Road north of State Route 86 in southeast Leroy Township and contains 77 sublots on 165 acres. The average lot size is 2.8 acres. He said Stein Farm was approved as a Preliminary Plan in October.

Mr. Radachy said that the Glacier Cliff block length is 3,179 feet. This exceeds the maximum block length of 2,100 feet by 1,179 feet. There are topographical issues regarding Bates Creek, and the land to the west has been subdivided by lot split.

Review Agencies Comments:

1. The County Engineer does not have any comment on the block length variance request.
2. The block length is too long at the current maximum of 2,100 feet. Increasing the length to 3,280 feet is not reasonable. *Leroy Township Trustees*
3. Leroy Township understands that the subdivision is designed to Lake County Standards, but they believe that the proposed temporary cul-de-sac streets will not connect to new roads anytime in the near future. *Leroy Township Trustees*

Other Comments

1. Other Comments: Land is subdivided by lot split to the west until the point that the developer is proposing to place Yukon Drive. There is a topographical issue to the east.
2. Effects on Public Interest: Information that may affect the sublots such as soils and wetlands will not be submitted. Lot sizes on the Plat may change requiring the Plat to be resubmitted at a later date.
3. Effect on Impairing Intent and Purpose of Regulations: Article IV Section 7(A) requires the subplot arrangement and design to provide satisfactory and desirable building sites, properly related to topography and the character of the surrounding development. This is a very difficult task for the Planning Commission without submission of the Improvement Plans.
4. Effect on Desirable Development of Neighborhood and Community: There should be no effect on desirable development of the neighborhood and community. The Improvement Plans are required to be submitted prior to the Plat being recorded. Any lot size issues will be worked out prior to the Plat being recorded.

Mr. Radachy said the land is subdivided by lot split to the west until the point that the developer is proposing to place Yukon Drive. There is a topographical issue to the east. The long block lengths promote higher car speeds. If this variance is granted, speed along the new road may become an issue.

Zoning Stipulation number five from the Preliminary Plan was that the block length of the first section of road was 3,300 feet and would require a variance. He pointed out an area where a temporary cul-de-sac could break up the block length. However, if a full cul-de-sac is installed that would require permission from ODOT to enter State Route 86 and that seems unlikely. There is a sharply graded cliff at one point with a high quality headwaters stream to the Grand River so there are topography issues. Staff is recommending approving the variance of the block length.

The Engineer did not comment. Leroy Township definitely opposed even the 2,100-foot block length.

The Planning Commission is requiring the Developer to meet with ODOT and the County Engineer on the site distance issue.

Mr. John Munro, representing Leroy-1, LLC, said that there is a physical drop of around 80 feet on the entire east edge of the property. They are asking for a variance from the maximum length. They must comply with the 1.5 acre zoning while maintaining this physical feature. There is a slight bend in the road and that is to maximize the preservation of the valley that exists and there are not a lot of ways to lay this out differently.

Mr. Pegoraro made a motion to approve the variance. Ms. Moran seconded the motion.

Mr. Radachy said that if we approve the variance, Leroy will have to follow our recommendation and the road will be 3,200 feet long.

Mr. Brotzman asked who would recommend the installation of speed bumps to slow traffic down.

Mr. Radachy showed that in another subdivision, Crossroads, the developer created an offset in the road to slow the speed of the traffic. Without granting this variance, they would have to redesign the block length. They could do an offset or curve the road or they could do a traffic circle. He showed where they could create an offset.

Mr. Pegoraro said he thought 2,100 feet was an arbitrary distance. He did not think it would make any difference as far as speed or traffic control.

Mr. Adams said there is a lot of concern about emergency vehicles having only one entrance and exit.

Mr. Radachy said they could put a temporary cul-de-sac with another entrance. The third entrance could be through another property that, right now, is owned by another person. The full development has seventy-seven (77) lots. There is well and septic.

Mr. Radachy said the other issue is that Leroy Township does not think the two temporary cul-de-sacs will be developed anytime soon and that the cul-de-sacs are not going to alleviate the issue of having 77 lots going out one entrance. Our regulations allow for consideration of temporary cul-de-sacs. There are other subdivisions that allow cul-de-sacs for ingress and egress and not connecting out.

Mr. Zondag expressed concern about the 77 homes going out onto Route 86. There is not good visibility at that site.

Mr. Adams asked if the options suggested were reasonable and doable.

Mr. Radachy said they could do the circle or put an artificial circle in the middle to do the same thing. The question arises of who will maintain the center. If we deny the variance, they will have to think of a way to break up the block length. He pointed out an area where they can do the offset or the turn. Then they would have to redesign it and resubmit the preliminary plan.

Mr. Schaedlich asked if the offset in the circle would eliminate the block length issue.

Mr. Radachy showed how it could be done.

Mr. Horacek suggested that they could correct the variance with another condition by stipulating the variance.

Mr. Radachy said if we were to follow Mr. Horacek's suggestion we could suggest an artificial circle and not require a resubmission.

Ms. Moran said in the interest of not adding expense and time this might be the thing to do.

Mr. Brotzman said if we granted the variance with the condition of working the circle in, it is still a block length issue, but we have addressed the potential for reducing speed.

Mr. Radachy said yes.

Ms. Pesec said if they do an offset, then they would be in compliance with our regulations.

Mr. Mark Gordon said he thought some of the suggestions such as putting in a temporary cul-de-sac would not necessarily solve the problem they were trying to address. Even if there was a cul-de-sac, there is no physical way to put in the divide. With regards to the traffic circle, homeowners will have traffic issues. To break up the long straight shot, there should be ninety degree angles and they can't put them in. They were willing to try to work out something. There is plenty of other acreage that is tied up in the bluff.

Ms. Hausch asked if there was any more discussion.

Mr. Zondag moved to amend the motion to state the following: we approve it with the provision that they come up with an alternative system for routing traffic, whether it be a circle or a diverted street, to resolve the issue with the Planning Commission.

Mr. Pegoraro amended his motion to concur with the proposed amendment. Ms. Moran seconded the motion.

Mr. Horacek said the motion was made to amend the original motion. The original motion was just to approve the variance. We need to vote on the amendment prior to voting on the variance.

Ms. Hausch asked for a vote on the amendment.

"All voted "Aye".

Mr. Zondag said the main motion is that we will approve the variance with the stipulation being that they will work with Mr. Radachy to create some device to maintain the 2,100 foot block length for the subdivision.

Ms. Hausch asked for a vote on the approval of the Stein Farm Subdivision Variance on Article IV, Section 3(G)(2) in Leroy Township with the addition of the above additional stipulation.

"All voted "Aye".

Leroy Township – Stein Farm Variance on Article III, Section 4(A), Submitting Plat Ahead of the Improvement Plans

Mr. Radachy said regulations require that improvement plans be submitted prior to and along with the Final Plat. Improvement Plans show the design for the roads, storm sewers, septic, the location of wells and other important items. The approval of the final plat with one and one-half acre lots would not have the information that is needed for making proper decisions on lots.

Mr. Radachy said that the Lake County Subdivision Regulations require Improvement Plans to be submitted along with or prior to submission of the Final Plat. The Developer wishes to submit the Final Plat ahead of the Improvement Plans claiming extraordinary and unnecessary hardship based on exceptional conditions. Technical stipulations cannot be met in the winter months due to frozen soil and other testing challenges.

Review Agency Comments:

1. We have serious concerns that the developer is asking for a variance to obtain a final plat when he has not submitted plans to the Health District for review. This proposed subdivision will be served by household sewage treatment systems and private water supplies, and the Health District review of the subdivision subplot layouts to ensure compliance with our regulations is necessary to determine if the lot lines will remain as proposed in the preliminary plat. It is not uncommon for lot lines to change or for lots to be eliminated during the Health District review of a subdivision. Further, soil evaluations can be done regardless of the time of year albeit it may take longer to complete (may require a back hoe vs. soil borings with a hand auger) when there is snow cover, and could have been scheduled for this summer or fall considering the developer and the design consultant were made aware of the Health District requirements in January of this year. The Health District recommends that the Planning Commission deny the variance to approve the final plat prior to the review and approval by the Health District. *Lake County General Health District*
2. The granting or denial of this variance request will not affect the subdivision cross-section design for the proposed road improvement. *Lake County Engineer*
3. The preliminary plans omit drainage details. *Lake County Engineer*
4. Should the Planning Commission approve the variance, proposed drainage appurtenances and associated easements may change the final number of lots and/or lot configurations. *Lake County Engineer*

5. Accordingly, the County Engineer will not sign the plat until such time as the final plans are approved and a surety to construct new roadway is in place. *Lake County Engineer*
6. An erosion and sediment control plan must be submitted to the Lake County Soil and Water Conservation District (LCSWCD) prior to approval of Improvement Plans. *LCSWCD*
7. The developer must show proof of compliance with the Ohio Environmental Protection Agency (OEPA) General Storm Water National Pollution Discharge Elimination System (NPDES) Permit as part of ESC Plan. *LCSWCD*
8. The developer must show proof of compliance with Section 404 of the Clean Water Act administered by the U.S. Army Corps of Engineers as part of the ESC Plan. *LCSWCD*
9. A Wetland Delineation verified by the U.S. Army Corps of Engineers must be provided as part of the ESC Plan. *LCSWCD*
10. Riparian setbacks shall be correctly drawn on Improvement Plans showing correct distances from the ordinary high water mark of streams and wetlands located within the site boundaries. *LCSWCD*
11. Please also refer to the LCSWCD's comments for the Preliminary Plan Review and the Preliminary Plan Approval Letter issued by the Lake County Planning Commission. *LCSWCD*
12. Leroy Township recommends that we follow our regulations and require the improvement plans be filed prior to the plat being filed. *Leroy Township Trustees*

Mr. Radachy said the way it normally works in a Leroy Township subdivision is that we approve the preliminary plan, the developer does the engineering design work and it is submitted to the Health District. The Health District will look at the entire property as a whole and approve the design of the subdivision. Once that approval is received from the Health District, the developers submit back to the Planning Commission and submit the improvement plans with the Health District layout and then they file the final plat.

Mr. Radachy said the Health District has a lot of concerns about the fact that they have not created the Improvement Plans. The Health District has not reviewed or approved the lots. The design of lots shows where the septic and wells are. This may cause a problem because the layout may change after the Improvement Plans are submitted and approved by the Health District. The County Engineer said the cross section of the road would not be affected by the variance. The County Engineer will not sign the plat until such time as the final plans are approved and a surety to construct the new roadway is in place or the road is built. There were also concerns about the proposed drainage appurtenances and associated easements that may change the final number of lots and/or lot configurations. The Soil and Water Conservation District was concerned about drainage and high water marks. The Stormwater District was concerned about stream setbacks.

Mr. Radachy said staff had concerns about improving lots without having important information required by the Subdivision Regulations.

Mr. Radachy said staff recommended to deny the variance.

Mr. John Munro representing Leroy-1, LLC said the Developer is not seeking to bypass the Lake County Health District. The problem is with the timing. Leroy Township has modified their zoning to rezone much of the Township to large lot three-acre zoning. They notified the property owner in late Spring, 2013. Mr. Gordon acquired the property in 2006. Their initial subdivision plan was drawn up by Barrington back in November of 2006. They had a Pre-meeting with Planning Commission staff back in 2006. The plans cost real money. Then the real estate market dropped in November of 2008. In May of 2013, the developer got the plans back together and had another pre-meeting with the Planning Commission staff and got the comments in July of 2013 and submitted in early October of 2013. The Planning Commission approved the preliminary Plan as of October 30, 2013.

Mr. Munro said that on a separate tract, the Trustees are rezoning the property and did not tell the Developer until mid to late Spring of 2013. They voted to change the zoning in June of 2013 and placed a six-month sunset clause. During that six months, if you were ready to go, you could grandfather yourself in R-1 zoning. That sunset occurs on January 10th. That is the timing problem. They certainly recognize the Health District's concerns. There is no suggestion that they would not get all the approvals. They are just asking for a variance for additional time to submit the Improvements along with the Final Plan. They are asking that we condition the approval along with Planning Commission staff to review. They are suggesting that there might be some changes to the number of sublots but it will not get any higher. What most likely will happen is that the Developer would lose some. Either they would become common area blocks or they would become part of the adjoining properties. It costs thousands of dollars to do the Health District's study and it is not refundable. The Trustees are creating a situation where the property owner is running out of options.

Mr. Gordon said they did not want to skirt any of the laws. He knows the site distance was an issue. David Novak of Barrington Consultants was the Engineer and Surveyor. He talked to George Hadden about the site distance issue. When they met with the Leroy Trustees and Zoning Inspector in the Spring of 2013, they were never aware that there was an impending zoning change. And then the demand for residential lots dried up.

Mr. Gordon said they would have moved this along a lot faster had they known about an impending change. He asked the Trustees for a one-year sunset period and they said that six months was all they were going to work with. From the time they received their preliminary approval to January 10th is about a 70-day process. The site distance issue will take some time.

Mr. Munro said the Commission approved the preliminary site plan October 30th subject to 38 conditions. Under the Trustees current interpretation, they would have to get all 38 stipulations approved and signed by January 10th. The only request is for additional time to work with what has been approved by this body and dovetail it with the Trustees. For your information, we also asked the Trustees for an interpretation. The Assistant County Prosecutor is still working on an opinion as to technically, how we are grandfathered into the

current zoning with the Township. Right now, they are asking for a conditional approval and a variance from the strict requirement. It is not a blank check and it would go through the same approval process.

Mr. Brotzman asked if it was feasible to do what he was requesting with six months additional time.

Mr. Gordon said he thought it would be. They just thought they were running out of time.

Mr. Radachy said our regulations require that, prior to the Final Plat being filed, we grant the variance to allow them to submit the Final Plat with acre and one-half lots prior to January 10th. If they submit the plat prior to January 10th, prior to the meeting at the end of the month, they are grandfathered. The Planning Commission would be asked to approve the plat with one and one-half acre lots without the back up information. Once that plat has been approved, our regulations give them two years to record the plat. They still need to submit their improvement plans prior to them filing the plat. They need to file the improvement plans to make sure they conform to the plat that was submitted.

Mr. Radachy said Leroy Township recommended that we follow our regulations and require the improvement plans be filed prior to the plat being filed.

Mr. Horacek met with the Trustees and they said they were not taking any action with regard to Mr. Gordon's letter. They do not view this as being grandfathered in. It is his opinion that the law is clear that regardless of what the Township has to do, if the property owner submits their plat to the Planning Commission prior to the zoning change and that plat is approved by the Planning Commission, the lots will be legal non-conforming.

Mr. Zondag thanked Mr. Horacek for the perspective.

Mr. Pegoraro moved to grant the variance subject to approval of all regulatory agencies regarding the approval of construction drawings of this development. This would be before the plat is recorded.

Mr. Horacek said they have two years from approval to get it recorded.

Mr. Brotzman seconded the motion.

Mr. Morse asked if Mr. Radachy still recommending disapproval.

Mr. Radachy said yes, he still recommended disapproval. With septic that is dependent on soil types and well water which is dependent on the water table, lots can get bigger or smaller very quickly. The plats submitted January 10th will probably be different than what gets recorded.

Ms. Hausch asked for a vote. A roll call vote was needed.

Mr. Adams	Yes	Mr. Brotzman	Yes
Ms. Moran	Yes	Mr. Morse	No
Ms. Hausch	No	Ms. Pesec	No
Mr. Schaedlich	Yes	Mr. Pegoraro	Yes
Mr. Zondag	No		

Five voted "Aye".
Four voted "Nay".
Motion passed.

SUBDIVISION ACTIVITY REPORT

Mr. Radachy reported the following:

- Summerwood Phase 4 will have a construction surety accepted by the Commissioners tomorrow. The Sanitary Engineer and Painesville Water Plant recommended those utilities go into maintenance. Once these two items are completed, the plat with the right-of-way can be accepted and recorded.
- Concord Ridge will be doing Phase 2 soon.
- We had 44 minor subdivisions in 2013, up from 39 in 2012.
- We had 73 lot splits this year which is lower than the 75 we reviewed in 2003.

LAND USE AND ZONING

Concord Township – Proposed Text Amendments, Section XXX, Signs

Mr. Radachy said the text amendment was a revision to Section 30, Signs, of the Concord Township Zoning Resolution. The regulations were drafted by a consultant and he was on the committee that helped with reviewing and writing the regulations.

Despite this fact, he still found some issues involving the regulation on the prohibition of back lighting in residential districts. The definition of flag was limiting. The new regulations are referencing an institutional district that does not exist and sign definitions in Section 5 were not proposed to be removed. He explained the current and proposed definitions of flag.

Mr. Radachy said that the Project Construction Sign should allow for owners of the property and space for government officials if they are sponsoring the project. Works of Art and Religious Artifacts are not defined. They are exempted in 30.10.

Staff stated that the regulations should not allow Electronic Message Centers to mimic safety signs in 30.07. He stated that there is a provision in 30.11, but would make sense to repeat it in this section. He also stated that he reviewed OCR 519.21 and stated that agriculture structures, in this case signs, can be regulated on lots five acres or less. 30.09 B 2 states less than five acres. He stated that temporary lights and decorations are allowed for patriotic or religious holidays. Groundhog Day, Earth Day, Halloween and Kwanzaa are not patriotic or religious holidays.

Mr. Radachy explained that the definition of flags needs to be rewritten.

Lori Lipton, who is considering becoming Ms. Moran's alternate, introduced herself.

Staff and the Land Use and Zoning Committee recommended the text amendment be accepted with the following changes:

- Amend the definition of project sign and create definitions for works of art and religious artifact.
- Rewrite the flag definition to allow for other types of flags people fly.
- Revise the agriculture signs to reflect the fact that they can regulate structures on lots five acres or smaller.
- Eliminate "patriotic or religious" from exemption on lights and decorations.
- Delete the definitions from Section 5.
- Delete the institutional district references.
- Allow for back lit signs either just for addresses or up to small square footage.
- Define what an "institution" is.

Ms. Pesec asked about the political signs in the text. She wanted to make sure in the regulations, that the "Temporary" signs did not have a time limit. She wanted to make sure they were still following the law that was put in place.

Mr. Pegoraro moved and Mr. Zondag seconded the motion to accept the recommendation of the Land Use and Zoning Committee and staff to recommend approval with the eight text amendment changes.

All voted "Aye".

Painesville Township - District Amendment to 1344 West Jackson Street, - Proposed Amendment, From I-1 to B-3

Mr. Radachy said that the owner is requesting the change from I-1, Light Industrial to B-3, Commercial. It is 0.26 of an acre. There is an existing building on the property that has been used as an office. The last tenant was Eagle Protection Services. The building could be used as an office in either I-1 or B-3. The other uses for the building are different. Currently, it can be used as a small machine shop which may be disruptive to the neighboring properties. If the change is made, it could be used as a store or daycare. This was a proposed use on the application.

Mr. Radachy said the Comprehensive Plan supported the change. Staff recommended the change.

Mr. Morse moved and Mr. Pegoraro seconded the motion to accept the recommendation of the Land Use and Zoning Committee and recommended approval of the district change from I-1 to B-3 in Painesville Township.

All voted "Aye".

Painesville Township – District Amendment to 1106 Richmond Road, Proposed District Amendment, From R-3 to R-1

Mr. Radachy said the owner is requesting the change from R-3 Duplex to R-1 Single Family. The land was R-1 up to 2006. At the time, the LUZ Committee and the Planning Commission recommended not making the change. The land is surround by single family zoned land and a small area of multi-family land (R-4). The Comprehensive Plan recommended single family.

Mr. Radachy stated that the property owner wished to change the unit back to a single family home to occupy. She wanted to build a garage and request a variance on the lot's sideline. Staff recommended the change. The Board of Zoning Appeals put a condition on the variance that the land be rezoned to R-1. He also agreed that the change should be made.

The Land Use and Zoning Committee supported the change. Staff recommended the change.

Mr. Pegoraro moved and Mr. Morse seconded the motion to accept the recommendation of the Land Use and Zoning Committee to recommend approval of the Proposed District Amendment from R-3 to R-1 in Painesville Township.

All voted "Aye".

Evelyn Ross's Resignation

Mr. Radachy announced that Evelyn Ross retired as Leroy Township's zoning secretary and retired from the Land Use and Zoning Committee effective January 1, 2014. He was grateful for her continued support. She served since 1994. Leroy Township has been informed and will recommend a replacement.

REPORTS OF SPECIAL COMMITTEES

There were no reports from special committees.

CORRESPONDENCE

Mr. Radachy said he got a request for a letter of support from the City of Painesville to support the U.S. Environmental Protection Agency (EPA) Community Wide Brownfields Assessment grant.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Ms. Hausch opened the floor for nominations for the Nominating Committee for 2014. Stephen Adams, Russell Schaedlich and Richard Morse were nominated for the purpose of nominating the 2014 officers of the Lake County Planning Commission.

Mr. Zondag moved and Mr. Pegoraro seconded the motion to form a Nomination Committee consisting of Steven Adams, Russell Schaedlich and Richard Morse.

All voted "Aye".

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

Mr. Siegel moved and Mr. Adams seconded the motion to adjourn.

All voted "Aye".

The meeting adjourned at 7:05 p.m.